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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

ZEBRA TECHNOLOGIES CORPORATION
and ZEBRA TECHNOLOGIES
INTERNATIONAL, LLC

Plaintiffs,

v.

DATACARD CORPORATION

Defendant.

Civ 06CV4159
JUDGE DER-YEGHAIYAN
MAG. JUDGE ASHMAN

COMPLAINT FOR DECLARATORY RELIEF

Plaintiffs Zebra Technologies Corporation ("ZTC") and Zebra Technologies International, LLC ("ZTI") (hereinafter collectively, "Zebra" or "Plaintiffs"), by and through counsel, for their Complaint against DataCard Corporation (hereinafter, "DataCard" or "Defendant"), allege on personal knowledge as to their actions, and upon information and belief as to the actions of others, as follows:

1. This is an action for Declaratory Judgment and other relief brought under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201-02.
2. ZTC is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business in Vernon Hills, Illinois.
3. ZTI is a limited liability company organized and existing under the laws of the State of Illinois, having a principal place of business in Vernon Hills, Illinois.
4. Upon information and belief, DataCard is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business in Minnetonka, Minnesota. DataCard may be served with a copy of Summons and this Complaint through its registered agent, Lou B. Davenport, 11111 Bren Road W, Minnetonka, Minnesota 55343.

5. DataCard has alleged that certain products manufactured by Zebra infringe United States Patent No. 6,963,351 B2 (the “‘351 patent”).

6. This Court has subject matter jurisdiction over this action upon at least the following grounds:

(a) 28 U.S.C. § 1331, this being a civil action arising under the laws of the United States; and

(b) 28 U.S.C. § 1338(a), this being a civil action arising under the patent laws of the United States, namely 35 U.S.C. § 1 *et seq.*

7. This Court may declare the rights and other legal relations of the parties in this case under 28 U.S.C. § 2201, and Rule 57, Fed.R.Civ.P., because an actual and justiciable controversy exists concerning the rights of, and legal relations between, Zebra and DataCard.

8. This Court has personal jurisdiction over DataCard consistent with the principles underlying the U.S. Constitution because, *inter alia*, DataCard regularly transacts business in this State and District.

9. Venue is proper in this Court under the provisions of 28 U.S.C. § 1391 because, among other things, DataCard is subject to personal jurisdiction in this District.

10. On or about November 1, 2005, Card Technology Corporation initiated suit against DataCard in the United States District Court for the District of Minnesota, styled as *Card Technology Corporation v. DataCard Corporation*, Civil Action No. 05-CV-02546 (hereinafter, “Minnesota Lawsuit”). DataCard asserted counterclaims in the Minnesota Lawsuit against Card Technology Corporation and its parent, NBS Technologies, Inc. (collectively, “NBS”) for alleged infringement of three U.S. patents, including a counterclaim for alleged infringement of the ‘351 patent. The accused products that are the subject of DataCard’s counterclaim for

alleged infringement of the '351 patent are manufactured by Zebra for NBS. Therefore, Zebra has a reasonable apprehension of litigation.

11. DataCard has alleged in the Minnesota Lawsuit that it has title to and is the owner of whatever rights, if any, may exist in the '351 patent.

12. There is an actual substantial controversy between Zebra and DataCard of sufficient immediacy and reality to warrant the rendering of a declaratory judgment by this Court. DataCard's allegations in the Minnesota Lawsuit have threatened, and placed a cloud over, Zebra's business and products.

**DECLARATORY JUDGMENT REGARDING
ALLEGATIONS OF PATENT INFRINGEMENT**

13. Zebra incorporates by reference Paragraphs 1 through 12 above as if set forth fully herein.

14. There is an actual and justiciable controversy between Zebra and DataCard concerning DataCard's allegations that the accused products manufactured by Zebra infringe the '351 patent.

15. These allegations place a cloud over Zebra's business activities and will cause uncertainty among customers, including NBS, as well as prospective customers, and others in the marketplace, leading Zebra to lose sales and business opportunities.

16. The '351 patent is invalid under the provisions of one or more sections of the patent laws of the United States, 35 U.S.C. § 1 *et seq.* and/or is not infringed.

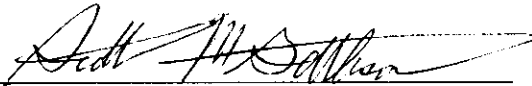
17. As a direct and proximate result of DataCard's allegations of patent infringement against the accused products, Zebra is suffering, and will continue to suffer, irreparable injury to its reputation and goodwill in an amount that cannot presently be ascertained and cannot be compensated adequately by monetary relief alone.

WHEREFORE, Plaintiffs pray for judgment:

- (a) Declaring that Zebra, and specifically the accused products have not infringed any purported patent rights of DataCard in the '351 patent, or otherwise violated the patent laws of the United States;
- (b) Declaring the '351 patent invalid pursuant to the patent laws of the United States;
- (c) Permanently enjoining DataCard, its successors, assigns, and others from asserting the '351 patent against Zebra or its customers with respect to any accused products made, used, sold, offered for sale and/or imported into the United States by Zebra;
- (d) Finding in favor of Zebra and declare this case exceptional pursuant to 35 U.S.C. § 285;
- (e) Awarding Zebra its attorneys' fees and other costs and expenses;
- (f) Awarding interest to the extent permitted by law; and
- (g) Awarding such further relief as the Court deems just and proper.

Dated: August 2, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy J. Vezeau', is written over a horizontal line.

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